



**UNITED STATES DEPARTMENT OF COMMERCE
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
08/528,538	09/14/95	KANEKO	35-61548

E1M1/0902
FITZPATRICK CELLA HARPER AND SCINTO
277 PARK AVENUE
NEW YORK NY 10172

EXAMINER
CUNEO, K

ART UNIT	PAPER NUMBER
2109	

DATE MAILED: 09/02/97

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No.

08/528,538

Applicant(s)

Norio Kaneko

Examiner

Kamand Cuneo

Group Art Unit

2109



☒ Responsive to communication(s) filed on Jun 2, 1997

☒ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

Disposition of Claims

☒ Claim(s) 1-3 and 22 is/are pending in the application.

Of the above, claim(s) _____ is/are withdrawn from consideration.

☐ Claim(s) _____ is/are allowed.

☒ Claim(s) 1-3 and 22 is/are rejected.

☐ Claim(s) _____ is/are objected to.

☐ Claims _____ are subject to restriction or election requirement.

Application Papers

☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☒ The drawing(s) filed on Sep 14, 1995 is/are objected to by the Examiner.

☒ The proposed drawing correction, filed on Jun 2, 1997 is ☐ approved ☒ disapproved.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

☒ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☒ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been
☒ received.

☐ received in Application No. (Series Code/Serial Number) _____.

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

☐ Notice of References Cited, PTO-892

☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). _____

☐ Interview Summary, PTO-413

☐ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

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DETAILED ACTION

Drawings

1. This application has been filed with informal drawings which are acceptable for examination purposes only. Formal drawings will be required if the application is allowed.
2. Figure 1 is objected to, because all parts shown in section must be cross hatched according to M.P.E.P § 608.01. Please cross hatch item (1).

Treatment of Claims Based on Prior Art

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-3 and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hayashi and Den et al. (538). Hayashi discloses a fine line of an oxide superconducting material with silver dispersed in the voids and covered with a copper sheath.

Hayashi discloses the claimed invention except for the superconducting oxide being Ln-Sr-Cu-M-O. Den et al. (538) discloses this type of superconducting oxide, reference the abstract. It would have been obvious to one of ordinary skill in the art, at the time the invention was made, to use the superconducting oxide of Den et al. (538) in the wire of

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Hayashi, because this type of superconducting oxide is one of many oxides known in the art for making superconducting wires.

This combination is hereafter referred to as the Den-Hayashi wire.

Regarding claim 22: The Den-Hayashi wire discloses the claimed invention except that the conductive material is an alloy. It would have been obvious to one of ordinary skill in the art, at the time the invention was made, to make the conductive material of the Den-Hayashi wire an alloy of copper, gold or aluminum, because it is well known in the superconducting arts to make the outer sheath of these types of wires from alloys of copper, gold or aluminum.

Response to Arguments

4. Applicant's arguments have been carefully reviewed and, considering the evidence as a whole, are not persuasive.

Applicant argues that Hayashi does not disclose a superconducting material with melted metal in the voids. Examiner disagrees. Hayashi discloses a mixture of silver a superconducting oxide. Whether the oxide is considered as dispersed in the metal or metal is considered to be dispersed in the oxide, to the examiner, are two ways of describing the same structure. Therefore, Hayashi discloses a superconducting oxide with silver dispersed in it. The silver is necessarily in the voids of the superconducting oxide, because it binds the oxide and provides a matrix for it.

Applicant argues that superconducting oxide particles of Hayashi are not in contact. Examiner notes that this is not a claim limitation.

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Applicant argues that Hayashi does not teach to melt the silver. Examiner notes that the structural limitation of the claim is that silver fill the voids of the oxide. This is true for the wire of Hayashi. It is not patentably significant whether the silver arrived in those voids by melting or by another process. Furthermore, Hayashi does melt the silver, because the wire is drawn to create a continuous matrix of silver to hold the superconducting oxide. This drawing causes the silver particles to flow together and bind.

5. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for response to this final action is set to expire **THREE MONTHS** from the date of this action. In the event a first response is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event will the statutory period for response expire later than **SIX MONTHS** from the date of this final action.

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Closing

6. Any inquiries concerning this communication or earlier communications from the examiner should be directed to Examiner Kamand Cuneo at (703) 308-1233. Examiner Cuneo's supervisor is Mrs. Kristine Kincaid whose telephone number is (703) 308-0640.

Kristine L. Kincaid
KRISTINE L. KINCAID
SUPERVISORY PATENT EXAMINER
GROUP 2100

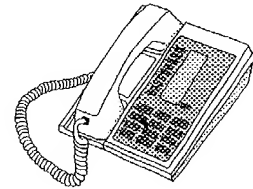
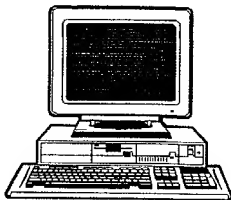
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August 30, 1997

Attachment AF

Paper No. _____

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